

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 CARL W. SONNE
Deputy Attorney General
4 State Bar No. 116253
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3164
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. OT 2008-462

13 **GUY KENNETH BROCK**
14 **10129 Cliffwood Drive**
15 **La Mesa, CA 91941**

A C C U S A T I O N

16 **Occupational Therapist License**
No. OT 5903

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Heather Martin (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the California Board of Occupational Therapy, Department of Consumer
23 Affairs.

24 2. On or about January 16, 2003, the California Board of Occupational Therapy issued
25 Occupational Therapist License number OT 5903 to Guy Kenneth Brock (Respondent). The
26 Occupational Therapist License expired on August 31, 2009, and has not been renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the California Board of Occupational Therapy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2570.30 of the Code states:

The board shall retain jurisdiction to proceed with any investigation, action or disciplinary proceeding against a license, or to render a decision suspending or revoking a license, regardless of the expiration, lapse, or suspension of the license by operation of law, by order or decision of the board or a court of law, or by the voluntary surrender of a license by the licensee.

STATUTORY PROVISIONS

5. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

7. Section 2570.28 states:

The board may deny or discipline a licensee for any of the following:

(a) Unprofessional conduct, including, but not limited to, the following:

....

(d) Making or giving any false statement or information in connection with the application for issuance or renewal of a license.

///

1 (e) Conviction of a crime or of any offense substantially related to the
2 qualifications, functions, or duties of a licensee, in which event the record of the
conviction shall be conclusive evidence thereof.

3
4 (o) Committing any act that would be grounds for denial of a license under
5 Section 480.
6

7 8. Section 2570.29 states:

8 In addition to other acts constituting unprofessional conduct within the meaning
9 of this chapter, it is unprofessional conduct for a person licensed under this chapter to
do any of the following:

10
11 (b) Use to an extent or in a manner dangerous or injurious to himself or herself,
12 to any other person, or to the public, or that impairs his or her ability to conduct with
13 safety to the public the practice authorized by his or her license, of any of the
following:

14 (1) A controlled substance as defined in Division 10 (commencing with
Section 11000) of the Health and Safety Code.

15 (2) A dangerous drug or dangerous device as defined in Section 4022.

16 (3) Alcoholic beverages.

17 (c) Be convicted of a criminal offense involving the prescription, consumption,
18 or self-administration of any of the substances described in subdivisions (a) and (b) of
this section, or the possession of, or falsification of a record pertaining to, the
19 substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof.

20

21 REGULATORY PROVISIONS

22 9. California Code of Regulations, title 16, section 4100 states:

23

24 (i) For the purposes of denial, suspension, or revocation of a license, a crime or
25 act shall be considered to be substantially related to the qualifications, functions or
duties of an occupational therapy practitioner, if it evidences present or potential
26 unfitness of a licensee to perform the functions authorized by his or her license or in a
manner inconsistent with the public health, safety, or welfare. Such crimes or acts
27 include but are not limited to those involving the following:

28 ///

1 (1) Violating or attempting to violate, directly or indirectly, or assisting or
2 abetting the violation of or conspiring to violate any provision or term of the
Occupational Therapy Practice Act.

3 (2) Fiscal dishonesty, theft or larceny.

4 (3) An incident involving controlled substances to the extent that practice is
5 impaired or a threat to the health or safety of themselves or others.

6 (4) Conviction of a crime involving harassment or stalking (as defined by the
Penal Code).

7 (5) Conviction of a crime involving lewd conduct, prostitution or solicitation
8 thereof, or pandering or indecent exposure (as defined by the Penal Code).

9 (6) Assaultive or abusive conduct including, but not limited to, those
violations listed in subdivision (d) of Penal Code Section 11160.

10 (7) Failure to comply with any mandatory reporting requirements.

11 (8) Any conviction or act subject to an order of registration pursuant to
12 Section 290 of the Penal Code.

13 COSTS

14 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licensee found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 FIRST CAUSE FOR DISCIPLINE

19 (September 23, 2005 Conviction for Driving Under the Influence on June 29, 2005)

20 11. Respondent has subjected his license to disciplinary action under sections 490 and
21 2570.28, subdivision (e) of the Code in that Respondent was convicted of a crime that is
22 substantially related to the qualifications, functions, and duties of an occupational therapist. The
23 circumstances are as follows:

24 a. On or about September 23, 2005, in a criminal proceeding entitled *People of the*
25 *State of California v. Guy Kenneth Brock*, in San Diego County Superior Court (East County
26 Division), case number C251928, Respondent was convicted on his plea of guilty of violating
27 Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol/drugs, a
28

1 misdemeanor. A second count of violating Vehicle Code section 23152, subdivision (b), driving
2 with a blood alcohol content of .08 percent or more, was dismissed pursuant to a plea agreement.

3 b. As a result of the conviction, on or about September 23, 2005, Respondent was
4 sentenced to five years summary probation, ordered to 180 days in custody (stayed pending
5 successful completion of probation), complete a six-month First Conviction Program, attend a
6 MADD victim impact panel, pay fees, fines, and restitution in the amount of \$2,230, and comply
7 with standard alcohol terms.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct – Dangerous Use of Alcohol)**

10 12. Respondent has subjected his license to disciplinary action under sections 2570.28,
11 subdivision (a) and 2570.29, subdivision (b)(3) of the Code in that on or about June 29, 2005, as
12 described in paragraph 11, above, Respondent drove a motor vehicle with a blood alcohol
13 concentration in excess of .08% and was impaired by alcoholic beverages to an extent or in a
14 manner that was dangerous and injurious to himself and the public.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct – Conviction of an Alcohol-Related Criminal Offense)**

17 13. Respondent has subjected his license to disciplinary action under sections 2570.28,
18 subdivision (a) and 2570.29, subdivision (c) of the Code in that on or about September 23, 2005,
19 as described in paragraph 11, above, Respondent was convicted of violating Vehicle Code section
20 23152, subdivision (a), an alcohol-related criminal offense.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(June 19, 2007 Criminal Conviction for Battery on April 25, 2007)**

23 14. Respondent has subjected his license to disciplinary action under sections 490 and
24 2570.28, subdivision (e) of the Code in that Respondent was convicted of a crime that is
25 substantially related to the qualifications, functions, and duties of an occupational therapist. The
26 circumstances are as follows:

27 a. On or about June 19, 2007, in a criminal proceeding entitled *People of the State*
28 *of California v. Guy K. Brock*, in San Diego County Superior Court (East County Division), case

1 number C271361, Respondent was convicted on his plea of guilty of violating Penal Code section
2 242, battery, a misdemeanor. Sentencing on Count 2, violating Penal Code section 243,
3 subdivision (e)(1), battery of a current or former significant other, was stayed for three (3) years.

4 b. As a result of the conviction, on or about June 19, 2007, Respondent was
5 sentenced to three years summary probation (to expire June 18, 2010), and ordered to spend 180
6 days in custody (stayed pending successful completion of probation), attend and complete a
7 certified 52-week Domestic Violence Rehabilitation Program (DVRP), complete 10 days in a
8 Public Service Work Program (stayed pending completion of DVRP), pay a \$674 fine, and
9 comply with weapons possession restrictions. A Protective Order was issued on behalf of the
10 victim.

11 c. The facts that led to the conviction were that on or about the early evening of
12 April 25, 2007, the San Diego County Sheriff's Department was called to investigate a report of
13 domestic violence at a Spring Valley nail salon. The victim, Respondent's former live-in
14 girlfriend ("WKT"), told the deputies that she had been attempting to serve Respondent with a
15 temporary restraining order (TRO) issued a week earlier. Earlier in the day, on April 25th,
16 sheriff's deputies attempted to serve Respondent with the TRO at his place of employment but
17 were unable to locate him. While WKT was standing in front of the nail salon, Respondent drove
18 up, got out of his car, and made verbal threats. Respondent then used an open palm and shoved
19 WKT in the face, pushing her sunglasses into her face and causing an abrasion. Respondent
20 drove off at a high rate of speed. WKT attempted to follow him, but could not keep up and
21 returned to the salon where she called for assistance. The altercation was witnessed by persons
22 inside the nail salon.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 **(September 15, 2009 Criminal Conviction for Domestic Violence in May 2009)**

25 15. Respondent has subjected his license to disciplinary action under sections 490 and
26 2570.28, subdivision (e) of the Code in that Respondent was convicted of a crime that is
27 substantially related to the qualifications, functions, and duties of an occupational therapist. The
28 circumstances are as follows:

1 a. On or about September 15, 2009, in a criminal proceeding entitled *People of the*
2 *State of California v. Guy Kenneth Brock*, in San Diego County Superior Court (East County
3 Division), case number C292085, Respondent was convicted on his plea of guilty of violating
4 Penal Code section 273.5, subdivision (a), corporal injury to spouse and/or roommate, a
5 misdemeanor pursuant to Penal Code section 17, subdivision (b)(4). Five additional counts,
6 including battery, corporal injury, witness tampering, and tampering with a cable television line,
7 were dismissed as part of a plea bargain.

8 b. As a result of the conviction, on or about September 15, 2009, Respondent was
9 sentenced to three years summary probation, and ordered to spend 30 days in jail (with credit for
10 two days), attend and complete a certified 52-week Domestic Violence Recovery Program
11 (DVRP), pay a \$714 fine, and comply with weapons possession restrictions and other probation
12 terms.

13 c. The facts that led to the conviction were that on or about the afternoon of May
14 30, 2009, San Diego County Sheriff's deputies responded to the home Respondent had been
15 sharing with his current girlfriend, DJF, for the previous two months. DJF told the deputies that
16 she had been assaulted by Respondent; she had visible bruising to both arms, both eyes, and
17 redness around the neck. DJF stated that Respondent had been assaulting her for the last two
18 weeks and that the abuse had been escalating every day. DJF told the deputies that there had
19 been approximately five undocumented domestic violence incidents in the past two months. The
20 deputies conducted a background check on Respondent and discovered there was an active
21 restraining order protecting victim WKT.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 **(September 9, 2010 Criminal Conviction for Domestic Violence on February 14, 2010)**

24 16. Respondent has subjected his license to disciplinary action under sections 490 and
25 2570.28, subdivision (e) of the Code in that Respondent was convicted of a crime that is
26 substantially related to the qualifications, functions, and duties of an occupational therapist. The
27 circumstances are as follows:

1 a. On or about September 9, 2010, in a criminal proceeding entitled *People of the*
2 *State of California v. Guy Kenneth Brock*, in San Diego County Superior Court (East County
3 Division), case number SCE298436, Respondent was convicted on his plea of guilty of violating
4 Penal Code section 273.5, subdivision (a), corporal injury to spouse and/or roommate, a felony.
5 Two additional counts of resisting arrest (Penal Code section 69) and violation of a protective or
6 stay-away order (Penal Code section 166, subdivision (c)(1)), were dismissed as part of a plea
7 bargain. Respondent admitted the Penal Code 273.5, subdivision (e)(1) enhancement.

8 b. As a result of the conviction, on or about September 9, 2010, Respondent was
9 ordered to spend 180 days in jail (with credit 76 days), sentenced to three years formal probation,
10 ordered to abstain from alcohol and obtain professional therapy or counseling if directed by his
11 probation officer, stay away from victim DJF, pay \$1,614 in fines, fees, and restitution, and
12 comply with felony probation terms.

13 c. The facts that led to the conviction were that on or about the evening of
14 February 14, 2010, San Diego County Sheriff's deputies responded to a report of domestic
15 violence at the home Respondent shared with DJF. The dispatcher told the deputies that DJF was
16 hiding in a closet with a knife. When the deputies arrived, they met with DJF who related that
17 she and Respondent were married seven years earlier, but had divorced and continued to live
18 together. DJF reported that there had been a long history of domestic violence committed by
19 Respondent against her, and that there was a restraining order against Respondent but it had not
20 been served. DJF told the deputies that Respondent gets violent when he doesn't take his
21 medications. On that day, Respondent kicked DJF in the eye and grabbed her arm forcefully
22 while she was lying on the bed watching television. Respondent left the room and DJF attempted
23 to block the bedroom door with a brick. Respondent kicked the door open and DJF was hit with
24 the brick on her leg, cutting her. Photographs were taken of DJF's injuries including two swollen
25 black eyes, a bruise on her right bicep, and two cuts on her lower legs. Respondent had to be
26 chased to be apprehended and had to be Tasered due to his resisting arrest. Respondent
27 constantly shouted profanities at the deputies throughout the arrest. During his transport to jail,
28 Respondent stated that next time he would get a fake gun so that law enforcement officers would

1 shoot him. Two days later, DJF contacted the sheriff's department to report that Respondent was
2 calling her collect from jail, which was a violation of the restraining order. She also wanted to
3 turn over items she had found in the residence including a scale, a drug cutting instrument, and
4 two glass pipes. A deputy retrieved the glass pipes from DJF. One pipe contained a white
5 residue and was commonly used to smoke methamphetamine. The second pipe contained green
6 leafy residue and is commonly used to smoke marijuana.

7 **SEVENTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct That Would Warrant Denial of a License)**

9 17. Respondent has subjected his license to disciplinary action under sections 2570.28,
10 subdivisions (a) and (o) of the Code in that on September 23, 2005, Respondent was convicted of
11 violating Vehicle Code section 23152, subdivision (a), driving under the influence of
12 alcohol/drugs (paragraph 11, above); on June 19, 2007, Respondent was convicted of violating
13 Penal Code section 242, battery (paragraph 14, above); on September 15, 2009, Respondent was
14 convicted of violating Penal Code section 273.5, subdivision (a), corporal injury to spouse and/or
15 roommate (paragraph 15, above); and on September 9, 2010, Respondent was convicted of
16 violating Penal Code section 273.5, subdivision (a), felony corporal injury to spouse (paragraph
17 16, above). Respondent's application for an occupational therapist license would be denied if he
18 applied with his current conviction record of alcohol abuse and domestic violence.

19 **DISCIPLINARY CONSIDERATIONS**

20 18. To determine the degree of discipline, if any, to be imposed on Respondent,
21 Complainant alleges the following:

22 a. On August 25, 2007, Respondent signed his License Renewal Application
23 under penalty of perjury as true and correct. Respondent checked the box "NO" in response to
24 the question, "Since you last renewed your license, have you been disciplined by another public
25 agency or convicted of, or pled guilty or nolo contendere to any violation of any law of any state,
26 the United States or a foreign country?" On or about June 19, 2007, in a criminal proceeding
27 entitled *People of the State of California v. Guy K. Brock*, in San Diego County Superior Court
28

1 (East County Division), case number C271361, Respondent was convicted on his plea of guilty of
2 violating Penal Code section 242, misdemeanor battery (as detailed in paragraph 14, above.)

3 b. On or about January 14, 2009, the Board served Respondent with Citation
4 Order number OT 2007-22 for violating Business and Professions Code section 2570.28,
5 subdivision (d) (making or giving a false statement or information in connection with the
6 application for issuance or renewal of a license); and section 2570.28, subdivision (h)
7 (committing any . . . dishonest . . . act that is substantially related to the qualifications, functions,
8 or duties of a licensee.)

9 c. Citation Order number OT 2007-22 required Respondent to pay a fine in the
10 amount of \$250.00 no later than February 13, 2009. Respondent requested that he be permitted to
11 make payments. On February 23, 2009, the Board informed Respondent that he must make
12 payments of \$50.00 per month, and was warned that his license would not be renewed if he did
13 not pay the full amount by July 15, 2009. Respondent's license is currently in a delinquent status
14 for failure to pay the balance of \$150.00 owed on the citation.

15 19. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges that on or about March 4, 2010, in a criminal proceeding entitled *People of*
17 *the State of California v. Guy Kenneth Brock*, brought by applicant Heather Martin, Executive
18 Officer, California State Board of Occupational Therapy, in San Diego County Superior Court
19 (East County Division), case number CE298436, a judge ordered that Respondent was prohibited
20 from working as an occupational therapist, either directly or indirectly, while on pretrial "own
21 recognizance" release or while on bail pending resolution of the criminal matter (as detailed in
22 paragraph 16, above), or any California State Board of Occupational Therapy disciplinary
23 proceeding, whichever concludes last.

24 PRAYER

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the California Board of Occupational Therapy issue a decision:

27 1. Revoking or suspending Occupational Therapist License Number OT 5903, issued to
28 Guy Kenneth Brock;

1 2. Ordering Guy Kenneth Brock to pay the California Board of Occupational Therapy
2 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
5
6

7 DATED: 27 December 2010



8 HEATHER MARTIN
9 Executive Officer
10 California Board of Occupational Therapy
11 Department of Consumer Affairs
12 State of California
13 Complainant

12 SD2009805249

13 70404908.docx
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28